

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.21303 of 2019
and
W.M.P.Nos.20519 & 20520 of 2019

R.Parthiban
S/o.K.Ramachandran ...Petitioner

vs.

The Garrison Engineer
Military Engineer Services
IAF Post, Muthapudupet
Avadi, Chennai-55. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the respondent herein in Office order No.65 dated 26.06.2019 and the consequential amendment issued in Officer Order No.68 dated 04.07.2019 and quash the same and consequently, direct the respondent herein to constitute Works Committee as per provisions of the Rule 42 of the Industrial Disputes (Central) Rules, 1957.

For Petitioner : Mr.R.S.Anandan
For Respondent : Mr.N.Rajan
Senior Central Government Standing Counsel

O R D E R

This writ petition is filed challenging the proceedings of the respondent dated 26.06.2019 and the consequential amendment issued on 04.07.2019, wherein and whereby, the respondent has fixed 8 constituencies to conduct election for the Works Committee. Consequently, the petitioner seeks for a direction to the respondent to constitute the Works Committee as per the provisions of Rule 42 of the Industrial Disputes (Central) Rules, 1957.

2. Heard the learned counsel for the petitioner and the learned Senior Central Government Standing Counsel for the respondent.

3. For the purpose of conducting election to the Works Committee, the respondent has fixed 8 constituencies as per the impugned proceedings. The grievance of the petitioner, who is claiming to be the Chairman, Military Engineer Services Employee's Union, is that as per proviso to Rule 42 of the Industrial Disputes (Central) Rules, 1957, when there is no necessity to fix more constituencies if number of workmen in the Union is more than 50%, the respondent is not justified in fixing more than one constituency for the purpose of conducting election to the Works Committee. It is seen that though the petitioner sought for interim stay of the impugned proceedings, no such interim order is granted in this writ petition.

4. The learned Senior Central Government Standing Counsel for the respondent submitted that pursuant to the impugned proceedings, election was already conducted and therefore, nothing remains in this writ petition to be adjudicated upon.

5. On the other hand, the learned counsel for the petitioner submitted that when the very fixing of the constituency is put to question, the petitioner cannot be non-suited, merely because, the election is conducted in the meantime.

6. Admittedly, the impugned proceedings were issued for the purpose of conducting election to the Works Committee. It is not in dispute that the election, in pursuant to the impugned proceedings, was already over. The challenge made in this writ petition is only against fixing of the constituency, where this Court has not granted any interim protection to the petitioner.

7. Under such circumstances, I find that instead of deciding the issue raised in this writ petition, it is better for the petitioner to approach the respondent and make a further representation for the future elections. If any such representation is made, the respondent shall consider and decide the same on merits and in accordance with law, without reference to the disposal of this writ petition, since this Court is not expressing any view as such on the merits of the contentions raised by both parties. The petitioner is at liberty to make a representation within a period of four weeks from the date of receipt of a copy of this order. If any such representation is made, the respondent shall consider the same and pass

appropriate orders on merits and in accordance with law, within a period of four weeks thereafter. It is also open to the petitioner to work out his remedy, if anything available under law to challenge the election already conducted. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

mk

To

The Garrison Engineer
Military Engineer Services
IAF Post, Muthapudupet
Avadi, Chennai-55.

+1cc to Mr.R.S.Anandan, Advocate, SR.No.105251.
+1cc to Mr.N.Rajan, Advocate, SR.No.105360.

W.P.No.21303 of 2019

NR(CO)
CSR: 23/01/2020



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